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WESTERN DISTRICT OF WASHINGTON  
DEPUTY

**UNITED STATES DISTRICT COURT**

**WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

**SHAKESPEARE COMPANY, LLC, a  
Delaware limited liability company,**

**Plaintiff,**

v.

SILSTAR CORPORATION OF AMERICA,  
INC., a South Carolina corporation,  
LFS, INC., a Washington corporation, and  
STEPHEN WILTON, and individual d/b/a  
SHINYSCREEN SOLUTIONS INC..

### **Defendants.**

**Civil Action No.**

## **COMPLAINT FOR TRADE DRESS**

**INFRINGEMENT, FALSE  
DESIGNATION OF ORIGIN,  
TRADEMARK INFRINGEMENT,  
UNFAIR COMPETITION, FALSE  
ADVERTISING, VIOLATIONS OF THE  
WASHINGTON CONSUMER  
PROTECTION ACT**



06-CV-00090-CMP

Plaintiff, Shakespeare Company, LLC ("Shakespeare"), by and through its undersigned counsel, respectfully makes the following allegations for its Complaint against Defendants, Silstar Corporation of America, Inc. ("Silstar"), LFS, Inc., and Stephen Wilton d/b/a Shinyscreen Solutions Inc. These allegations are made upon knowledge with respect to Shakespeare and its own acts, and upon information and belief as to all other matters.

COMPLAINT - Page 1

**KLARQUIST SPARKMAN, LLP**  
999 Third Avenue, Suite 4200  
Seattle, WA 98104  
Telephone: 206-264-2960

ORIGINAL

## INTRODUCTION

1. For almost thirty years, Shakespeare has sold a graphite and fiberglass fishing rod which has been so successful that it is one of the best-selling fishing rods in the industry. Shakespeare has developed several distinctive trademarks that help consumers identify and distinguish its very successful rod including the trademark UGLY STIK and the distinctive combination of a whitish translucent tip, opaque shaft, red and gold bands, and a red and gold diamond pattern above the handle. The public has come to recognize and look for these trademarks as an assurance that the rod originates from Shakespeare and is the quality product commonly referred to verbally as the "Ugly Stik" rod.

2. In an effort to trade on Shakespeare's thirty years of hard-won success with the Ugly Stik rod, Defendant Silstar has imitated Shakespeare's trademarks to help sell its competing fishing rod called the PowerTip Pro. Silstar's gambit is likely to cause and in fact has caused confusion among consumers looking to purchase a genuine Shakespeare Ugly Stik rod.

3. In addition to copying Shakespeare's trademarks, Silstar also has resorted to false and fraudulent advertising of its PowerTip Pro in an effort to make consumers think that its rod has the same graphite core composition as a genuine Shakespeare Ugly Stik rod. In fact, tests of the PowerTip Pro rod reveal that it has no graphite core. This and other false and fraudulent claims by Silstar about its product not only deceive the public in Washington and the rest of the country but also injure Shakespeare by having its valuable Ugly Stik rod trademarks wrongly associated with a Silstar rod that lacks what it promises.

4. Because Silstar has unlawfully copied Shakespeare's valuable trademarks and labels and has deceived the public as to the nature of the Silstar rods, Shakespeare has been forced to bring this action.

## PARTIES

5. Plaintiff Shakespeare is a limited liability company organized under the laws of the State of Delaware and having a principal place of business at 3801 Westmore Drive, Columbia, South Carolina 29223. Shakespeare's intellectual property rights, including its trademarks, trade dress, and copyrights, are managed on its behalf by sister company K-2 Corporation, an Indiana corporation having a principal place of business at 19215 Vashon Highway S.W., Vashon, Washington 98070. Shakespeare and K-2 Corporation are each subsidiaries of K2 Inc., a Delaware corporation having a principal place of business at 5818 El Camino Real, Carlsbad, California 92008.

6. Defendant Silstar is a South Carolina corporation with a place of business at 1141 Silstar Road, West Columbia, South Carolina 29169.

7. Defendant LFS, Inc. is a Washington corporation with a place of business at 851 Coho Way, Bellingham, Washington 98225.

8. Defendant Stephen Wilton is an individual doing business as Shinyscreen Solutions Inc. at 1124 Fir Avenue, Blaine, Washington 98230. The registration information for the domain name [www.shinyoutdoors.com](http://www.shinyoutdoors.com) identifies the domain owner as Shinyscreen Solutions Inc. and identifies Mr. Wilton as the technical, registrant, and administrative contact. The business Shinyscreen Solutions Inc. is not registered as a corporation with the State of Washington.

## **JURISDICTION AND VENUE**

9. This is a civil action for trademark infringement, trade dress infringement, unfair competition, and false advertising arising under the common law and the Lanham Act, 15 U.S.C. § 1051 et seq., and for violations of the Washington State Consumer Protection Act, RCW 19.86 et seq. Federal subject matter jurisdiction is found in 28 U.S.C. §§ 1331 (federal question), 1337 (supplemental), 1338(a) (trademark), and 1338(b) (related claims of unfair competition), and 15 U.S.C. § 1121 (Lanham Act actions).

10. Defendants do regular business in this judicial district. Defendants have also committed acts of trademark infringement, trade dress infringement, unfair competition, and false advertising, and violations of the Washington State Consumer Protection Act by selling, distributing, advertising, and marketing the PowerTip Pro in this judicial district.

11. Venue is proper in this district under 28 U.S.C. § 1391.

## **PLAINTIFF SHAKESPEARE'S RIGHTS**

12. Shakespeare is one of the world's most well-known and successful manufacturers and distributors of fishing tackle, including fishing rods, fishing reels, and related accessories. Shakespeare's products have been sold for more than 100 years and have provided customers with consistent characteristics and quality. Shakespeare's customers and the public have come to rely upon and look for Shakespeare's trademarks and trade dress to identify products originating from Shakespeare. As a consequence, Shakespeare's name, trademarks, and trade dress have come to symbolize valuable goodwill and reputation. Shakespeare has produced, advertised, sold, and distributed its products throughout the United States and the world.

13. Since 1976, Shakespeare has produced, advertised, sold, and distributed fishing rods that have the distinctive appearance of: (1) a whitish translucent (i.e., clear) tip between approximately the end of the rod and the second line guide, in combination with (2) an opaque shaft from approximately the second line guide down to the rod base. This distinctive combination of clear from the tip to the second line guide and opaque below that point has come to be commonly known as the "Clear Tip" mark.

14. The Clear Tip mark has appeared on a line of Shakespeare fishing rods known as the "Ugly Stik" line, which has included, among others, the Ugly Stik and Ugly Stik Lite fishing rods. Shakespeare's extensive advertising and sales of Ugly Stik fishing rods bearing the Clear Tip mark has resulted in widespread recognition by the purchasing public of the Clear Tip mark as an indication that the rod upon which the Clear Tip mark appears originates from Shakespeare. An example of an Ugly Stik rod having the Clear Tip mark is shown in Exhibit A and is illustrated below;



#### *Ugly Stik Clear Tip Mark*

15. The Ugly Stik fishing rod contains a strong but light graphite core coated in longitudinal fiberglass strands and ending in a solid fiberglass tip. By virtue of extensive advertising, a high quality product, and the distinctiveness of the "Clear Tip" mark, the Ugly Stik rod has become one of the best-selling fishing rods in the industry.

1       16. The Ugly Stik rod is not the only fishing rod that contains a graphite core and a  
2 fiberglass coating and tip. Other companies sell rods with similar materials but use different  
3 colors on the tip portion of the rod than Shakespeare, including opaque colored tips as well as  
4 tinted translucent tips. In this diverse marketplace, the public has come to associate a fishing  
5 rod bearing the Clear Tip mark with Shakespeare only and specifically with Shakespeare's Ugly  
6 Stik fishing rods.

7       17. Shakespeare has been granted a United States Trademark Registration for its  
8 Clear Tip trademark. Specifically, Shakespeare is the owner of United States Trademark  
9 Registration No. 1,261,786, issued December 20, 1983, for fishing rods (hereafter the "'786  
10 Registration"), a copy of which is attached hereto as Exhibit B. The '786 Registration claims a  
11 mark that is described by the registration as follows:

12                  14       The mark is used by applying it to the goods in that the mark is the  
13                  15       color configuration of the fishing rod as shown in the drawing in  
14                  16       which the tip portion of the shaft between the tip and the second  
15                  17       line guide elements consists of a whitish, translucent material in  
16                  18       contrast to the opaque remainder of the shaft. The unshaded  
17                  19       portion of the drawing represents the whitish, translucent tip  
18                  20       portion feature on the shaft.

21                  21       The '786 Registration constitutes prima facie evidence that fishing rods with Shakespeare's  
22                  22       Clear Tip trademark are distinctive; that Shakespeare owns the exclusive right to use the mark  
23                  23       claimed by the registration; and that the registration is valid. The '786 Registration is in full  
24                  24       force and effect. The Clear Tip mark applied to a fishing rod has therefore become a valuable  
25                  25       trademark owned and registered by Shakespeare.

26       18. In addition to the Clear Tip mark, customers also recognize Shakespeare and its  
27       Ugly Stik rod on the basis of other distinguishing trademarks and trade dress. Among these  
additional marks are distinctive diamond weave patterns formed by a combination of red and

1 gold lines located on the area of the rod immediately above the handle (hereafter referred to as  
2 the "Red-Gold Diamond marks"). Examples of Ugly Stik rods having variations of the  
3 distinctive Red-Gold Diamond marks are shown in Exhibit A. This feature is also shown below  
4 as it appears on the Ugly Stik (left) and the Ugly Stik Lite (right) fishing rods:  
5



6 *Examples of Ugly Stik Red-Gold Diamond Marks*  
7  
8

9  
10 19. Customers also have come to recognize Shakespeare and its Ugly Stik rod for the  
11 rod's distinctive combination of the following features: the Clear Tip mark, distinctive Red-  
12 Gold Diamond marks, red and gold bands below each line guide, and dark-colored line guides  
13 (hereafter referred to as the "Overall Ugly Stik trade dress"). Examples of Ugly Stik rods  
14 having the Overall Ugly Stik trade dress are shown in Exhibit A. The additional features that  
15 make up the Overall Ugly Stik Trade Dress, including the dark-colored line guides in  
16 combination with the red and gold bands under each line guide, are shown below:  
17  
18



19 *Ugly Stik Line Guides and Red-Gold Bands*  
20  
21  
22  
23  
24  
25  
26  
27

20. Shakespeare is also the owner of rights in trade dress embodied and depicted by the distinctive label attached hereto as Exhibit C (hereafter referred to as the "Shakespeare Label"). The Shakespeare Label has been affixed to Ugly Stik fishing rods sold and distributed in commerce by Shakespeare throughout the United States.

## PRIOR LITIGATION BETWEEN SHAKESPEARE AND SILSTAR

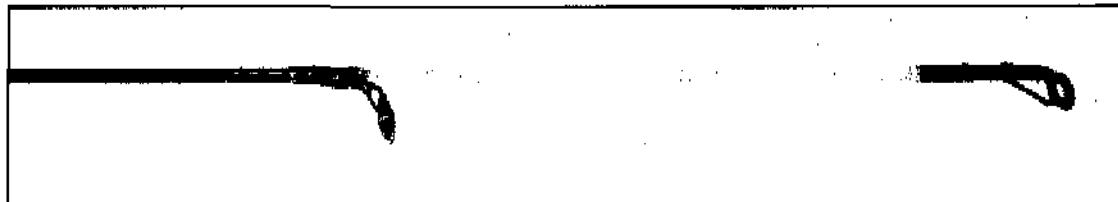
21. On July 20, 1990, Shakespeare filed a Complaint against Silstar in the United States District Court for the District of South Carolina, which case was assigned Civil Action No. 3-90-1695-15. In this prior litigation, Shakespeare asserted that a Silstar product called the PowerTip Crystal infringed Shakespeare's registered Clear Tip trademark. Ultimately, the District Court found that Silstar's PowerTip Crystal product was a "fair use" of Shakespeare's Clear Tip trademark because the PowerTip Crystal was sold in the appearance that naturally resulted from the manufacturing process. The District Court also found that the PowerTip Crystal sold in the unembellished condition that resulted naturally from the manufacturing process was not likely to be confused with the Shakespeare Ugly Stik rod having the Clear Tip mark. The District Court's opinion is reported at 906 F. Supp. 997 (D.S.C. 1995). The decision was affirmed by the United States Court of Appeals for the Fourth Circuit, whose opinion is reported at 110 F.3d 234 (4<sup>th</sup> Cir. 1997).

## SIL-STAR'S NEW INFRINGING ACTIVITIES

22. Silstar has discontinued the PowerTip Crystal rod that was the subject of the prior litigation between the parties and replaced it with a different line of rods called the PowerTip Pro. These new PowerTip Pro rods are confusingly similar to Shakespeare's Ugly Stik rods and incorporate the trademarks and trade dress used by Shakespeare to identify its Ugly Stik rods.

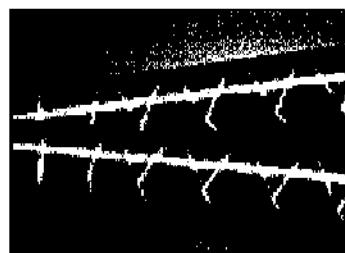
23. Silstar is selling and distributing in commerce the PowerTip Pro fishing rods throughout the United States and in the State of Washington.

24. Silstar's PowerTip Pro rod incorporates Shakespeare's Clear Tip mark (including the mark shown by the '786 Registration), as shown in Exhibit D and below:



*Clear Tip Mark as Used on Silstar's PowerTip Pro*

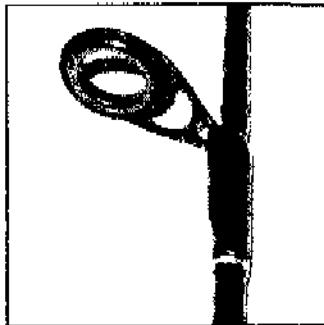
25. Silstar's PowerTip Pro rod also incorporates a variation of Shakespeare's Red-Gold Diamond marks, as shown in Exhibit D. In fact, Silstar's website draws particular attention to this feature of its rod by including the following close-up picture of its rod:



*Red-Gold Diamond Mark as Used on Silstar's PowerTip Pro*

26. Silstar's PowerTip Pro rod also incorporates Shakespeare's Overall Ugly Stik trade dress, including the Clear Tip mark, a variation of the Red-Gold Diamond marks, dark-colored line guides, and red and gold bands under each line guide, as shown in Exhibit D. Photographs of Silstar's use of Shakespeare's Clear Tip mark and Red-Gold Diamond marks on the PowerTip Pro rod are shown above in paragraphs 24 and 25, respectively. Shown below is

1 the PowerTip Pro's use of the additional features that make up the Overall Ugly Stik trade  
2 dress, namely the dark-colored line guides and red and gold bands:



9 *Dark-Colored Line Guides and Red-Gold Bands on Silstar's PowerTip Pro*

10  
11 27. Silstar is selling and distributing its PowerTip Pro fishing rods in commerce in  
12 association with the label attached hereto as Exhibit E (hereafter referred to as the "Silstar  
13 Hangtag"). The Silstar Hangtag incorporates Shakespeare's trademarks and trade dress rights  
14 and is confusingly similar to the Shakespeare Label sold and distributed in commerce in  
15 association with the Ugly Stik rods.

16  
17 28. The Silstar Hangtag also is substantially similar to the Shakespeare Label.  
18 Because Shakespeare has sold and distributed fishing rods upon which the Shakespeare Label  
19 was affixed throughout the United States, Silstar had access to the Shakespeare Label prior to  
20 producing the Silstar Hangtag.

21  
22 29. Silstar's sale, distribution, marketing, and advertising of fishing rods that  
23 incorporate the Clear Tip mark (including the mark shown by the '786 Registration), the Red-  
24 Gold Diamond marks, and the Overall Ugly Stik trade dress, as well as Silstar's use of the  
25 Silstar Hangtag, are likely to cause confusion, to cause mistake, or to deceive customers and the  
26  
27

1 public into believing that Silstar's goods originate from Shakespeare or that Silstar's goods are  
2 associated with or endorsed by Shakespeare.

3       30. Silstar's sale, distribution, marketing, and advertising of fishing rods that  
4 incorporate the Clear Tip mark (including the mark shown by the '786 Registration), the Red-  
5 Gold Diamond marks, and the Overall Ugly Stik trade dress, as well as Silstar's use of the  
6 Silstar Hangtag, constitute infringement of trademarks and trade dress rights owned and used in  
7 commerce by Shakespeare.

8       31. On information and belief, Silstar has copied the Clear Tip mark (including the  
9 mark shown by the '786 Registration), the Red-Gold Diamond marks, the Ugly Stik trade dress,  
10 and the Shakespeare Label in an attempt to trade upon the valuable goodwill and reputation  
11 owned by Shakespeare.

12       32. On information and belief, Silstar's infringement of Shakespeare's trademarks  
13 and trade dress complained of herein has been willful and in bad faith.

14       33. The PowerTip Pro fishing rods currently being sold by Silstar are substantially  
15 different in composition and appearance from the PowerTip Crystal rods that were the subject  
16 of prior litigation between Shakespeare and Silstar. For example, unlike the PowerTip Crystal  
17 rods, the PowerTip Pro rods are not sold in the appearance naturally resulting from the  
18 manufacturing process. Instead, the new PowerTip Pro rods are painted a dark, opaque color  
19 from the handle to the second line guide, leaving only the portion above the second line guide in  
20 a whitish translucent color. Also unlike the PowerTip Crystal, the PowerTip Pro includes above  
21 the handle a copy of Shakespeare's Red-Gold Diamond marks made of red and yellow lines.  
22 Also unlike the PowerTip Crystal, the PowerTip Pro includes black line guides as well as red  
23  
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1 and gold bands below each line guide. And also unlike the PowerTip Crystal, the PowerTip Pro  
2 does not contain a core made of graphite.

3                   **SILSTAR'S FALSE AND FRAUDULENT ADVERTISING**

4                  34. A graphite core is a feature of a fishing rod valued by customers.

5                  35. Silstar expressly states in its advertising and on its website that the PowerTip Pro  
6 contains a graphite core. For example, as shown in Exhibit D, Silstar's website, which is found  
7 at [www.silstar.com](http://www.silstar.com), describes the PowerTip Pro as follows: "Pinnacle® PowerTip® Pro Rods  
8 feature our Dual Layer Blank Construction. In this process, a protective shield of longitudinal  
9 super-strong glass fibers is wrapped around a super-sensitive, high-density graphite core."  
10 Likewise, the Silstar Hangtag, attached hereto as Exhibit E, implies that the PowerTip Pro  
11 contains a graphite core.

12                 36. In fact, the PowerTip Pro contains no graphite core. Thus, Silstar's  
13 representation that the core of the PowerTip Pro contains graphite misrepresents to customers  
14 the nature, quality, and composition of the PowerTip Pro rods.

15                 37. Silstar also expressly states in its advertising and on its website that the  
16 PowerTip Pro contains a solid fiberglass tip that is "unbreakable." For example, on its website,  
17 Silstar includes the following description of the PowerTip Pro: "At the top of the rod, these  
18 fibers come together to form a solid, unbreakable fiberglass tip, so you're assured of a super-  
19 strong, long-lasting rod that will transmit even the gentlest nibble." Strength of the tip of a  
20 fishing rod is a feature valued by fishing rod customers.

21                 38. In fact, the fiberglass tip of the PowerTip Pro is capable of being broken. Thus,  
22 Silstar's representation that the PowerTip Pro's tip is unbreakable falsely misrepresents to  
23 customers the nature, quality, and composition of the PowerTip Pro rods.

1                   **THE HARM TO SHAKESPEARE AND THE PUBLIC CAUSED BY SILSTAR**

2                 39.      The result of Silstar's unlawful use of Shakespeare's trademarks and trade dress  
3 complained of herein has been irreparable harm to Shakespeare's reputation and goodwill and  
4 actual deception of and damage to consumers. Shakespeare will continue to suffer such  
5 irreparable injury to its reputation and goodwill unless Silstar is enjoined from continuing the  
6 conduct complained of, which injury cannot be adequately compensated monetarily. As long as  
7 Silstar is allowed to continue the acts complained of, Shakespeare's reputation is at Silstar's  
8 mercy.

9                 40.      Likewise, Silstar's false and fraudulent representation of the nature, quality, and  
10 composition of its PowerTip Pro rods deceives the public and causes harm to the public as well  
11 as to Shakespeare.

12                   **INFRINGEMENT ACTIVITIES OF THE OTHER DEFENDANTS**

13                 41.      Defendant LFS, Inc. is identified by Silstar as a distributor of Silstar products.  
14 LFS has distributed in commerce infringing PowerTip Pro fishing rods to retailers in the State  
15 of Washington.

16                 42.      Defendant Stephen Wilton d/b/a ShinyScreen Solutions Inc. operates a website  
17 accessible on the internet at the URL [www.shinyoutdoors.com](http://www.shinyoutdoors.com). On this website, Mr. Wilton  
18 sells infringing PowerTip Pro fishing rods and ships them in commerce to purchasers from its  
19 Blaine, Washington location, including to customers located in Washington.

20                   **COUNT 1**  
21                   **TRADE DRESS INFRINGEMENT**

22                 43.      Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set  
23 forth herein.

**44.** Defendants' actions described herein constitute trade dress infringement in violation of the Lanham Act, 15 U.S.C. § 1125(a) and the common law.

**COUNT 2**

45. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

46. Defendants' actions described herein constitute a false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125(a).

**COUNT 3**  
**FEDERAL TRADEMARK INFRINGEMENT**

47. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

48. Shakespeare's '786 Registration is incontestable pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1065.

49. Defendants' actions described herein constitute infringement of Shakespeare's '786 Registration, in violation of the Lanham Act, 15 U.S.C. §§ 1114-1118.

**COUNT 4**

50. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

51. Defendants' actions described herein constitute common law trademark infringement and unfair competition in violation of the laws of the State of Washington and the laws of the several states.

**COUNT 5**  
**FEDERAL FALSE ADVERTISING**

52. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

53. Silstar's actions described herein constitute false advertising under 15 U.S.C. § 1125(a).

8           54. Specifically, Silstar is falsely stating and representing in advertisements that the  
9 PowerTip Pro fishing rods that they sell contain a graphite cork and an unbreakable tip. These  
10 misrepresentations are likely to deceive and have deceived consumers and are likely to be and  
11 have been material to consumers' purchasing decisions.

55. Silstar's misrepresentations have caused injury to Shakespeare.

**COUNT 6**  
**VIOLATIONS OF THE WASHINGTON  
STATE CONSUMER PROTECTION ACT**

56. Shakespeare incorporates the allegations stated by Paragraphs 1-42 as if fully set forth herein.

19       57. Defendants' conduct described herein is likely to cause, confusion, mistake and  
20 to deceive the public into believing that Plaintiffs' products and services are sponsored by,  
21 approved by, or affiliated with Defendant, and such actions affect the public interest and will be  
22 injurious thereto, in violation of Washington State Unfair Business Practices and Consumer  
23 Protection Act, RCW 19.86 et seq. Silstar is also falsely stating and representing that the  
24 PowerTip Pro fishing rods that they sell contain a graphite core and an unbreakable tip, also in  
25 violation of RCW 19.86 et seq.  
26

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Shakespeare prays for relief against Defendants in the form of the following relief and any further relief the Court may deem just and proper under the circumstances:

A. Granting a permanent injunction against Defendants and their servants, agents, employees, successors and assigns, and all persons acting in concert with them, enjoining them from:

- (1) using in any manner the Clear Tip mark (including the mark shown by the '786 Registration) or any other mark confusingly similar thereto;
- (2) using in any manner the Red-Gold Diamond marks or any other mark confusingly similar thereto;
- (3) using in any manner the Overall Ugly Stik trade dress or any other trade dress confusingly similar thereto;
- (4) using in any manner the Silstar Hangtag or any other hangtag confusingly to the Shakespeare Label;
- (5) infringing Shakespeare's trademarks, trade dress, and copyrights identified herein;
- (6) disseminating, using, or distributing any advertising or promotional materials, electronic or otherwise that state or imply that Silstar's PowerTip Pro fishing rod contains a graphite core or an unbreakable tip; and
- (7) using or disseminating any false or misleading statements as to the nature, quality, or characteristics of Silstar's PowerTip Pro fishing rod;

B. Requiring Defendants to deliver up to Shakespeare for destruction all goods, signs, advertisements, literature, business forms, cards, labels, packages, wrappers, pamphlets,

brochures, receptacles, and any other written or printed material in their possession or under their control which contain or encompass Shakespeare's Clear Tip mark, Red-Gold Diamond mark, Overall Ugly Stik trade dress, or any colorable imitations thereof or any marks or trade dress confusingly similar thereto or which contain any false or misleading representation of fact;

C. Awarding compensatory damages sustained by Shakespeare as a result of the acts complained of herein pursuant to federal and state law, to be trebled in accordance with 15 U.S.C. § 1117;

D. Awarding Shakespeare its attorneys' fees pursuant to 15 U.S.C. § 1117 and other applicable federal and state laws;

E. Awarding Shakespeare punitive damages for Defendants' willful and egregious deception of consumers and infringement of Shakespeare's rights in violation of both statutory and common law; and

F. Awarding Shakespeare interest, costs, and such other relief as the Court may deem just and equitable.

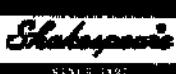
**JURY DEMAND**

Shakespeare hereby demands a trial by a jury of all issues so triable.

DATED: January 18, 2006

By:

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KLARQUIST SPARKMAN, LLP  
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E-mail: cindy.caditz@klarquist.com



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## Ugly Stik®

After 29 years, the Ugly Stik® continues to be the Number One selling rod of all time. Join the millions of loyal Ugly Stik® fans if your rods require incredible strength, sensitivity and versatility. If it's Ugly, it's got to be Shakespeare!



The Ugly Stik® is built Ugly tough featuring an "Ugly Back" 70-day/7-year warranty on freshwater rods and a 60-day/5-year limited warranty on all other rods.

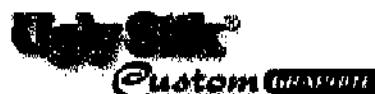


## Ugly Stik®

Complete catfish and striper rod series

## Ugly Stik® Lite®

All Inshore rods have stainless steel guides



## Ugly Stik® Custom

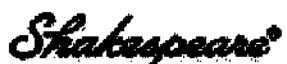
It's like owning a custom built rod!

## Ugly Stik® Big Water

Over 40 saltwater models!

## Ugly Stik® Tiger

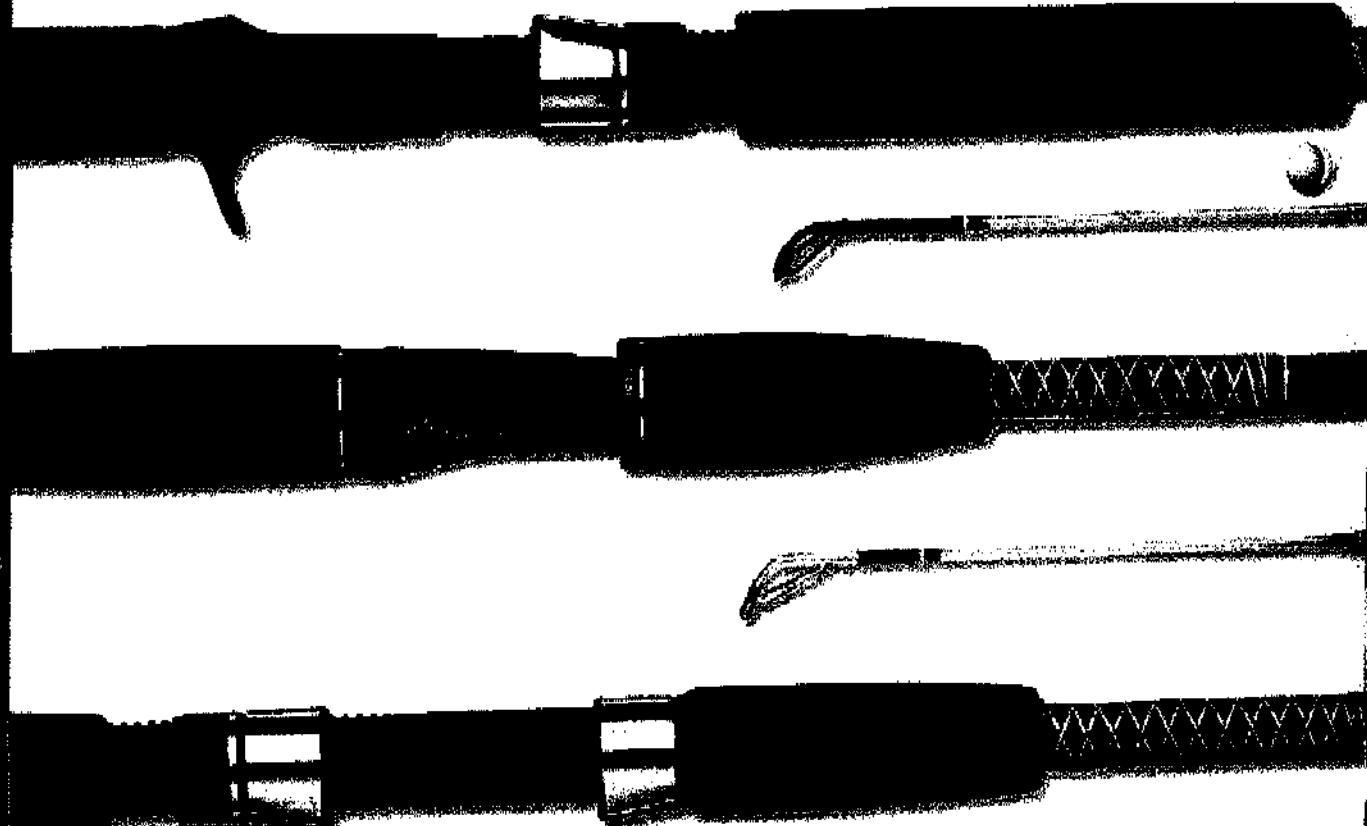
Fresh or saltwater big game rod



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Complaint  
**EXHIBIT A**

UGLY STIK FRESHWATER RODS



# Ugly Stik®

## ANYTHING ELSE IS JUST A ROD

- Ugly Stik Clear Tip® design for guaranteed strength and sensitivity.
- All Ugly Stik rods feature blank-through-handle construction for added strength and sensitivity.
- Durable and lightweight LVA graphite. Spinning models have an EVA insert on top of reel seat for added comfort.
- Graphite twist-lock reel seats are standard on most models.
- Ugly Stik Classic models feature conventional reel seats with cushioned stainless steel hoods on spinning models.
- Guides feature black stainless steel frames and aluminum oxide inserts.
- Ugly Stik Classic models feature double-touted, chrome-plated stainless steel vice frame guides with aluminum oxide inserts.
- Ferruleless design on two-piece models for the strength and feel of a one-piece rod.
- Over 40 actions to choose from for all freshwater fishing applications.
- Exclusive 70 day / 7 year warranty.



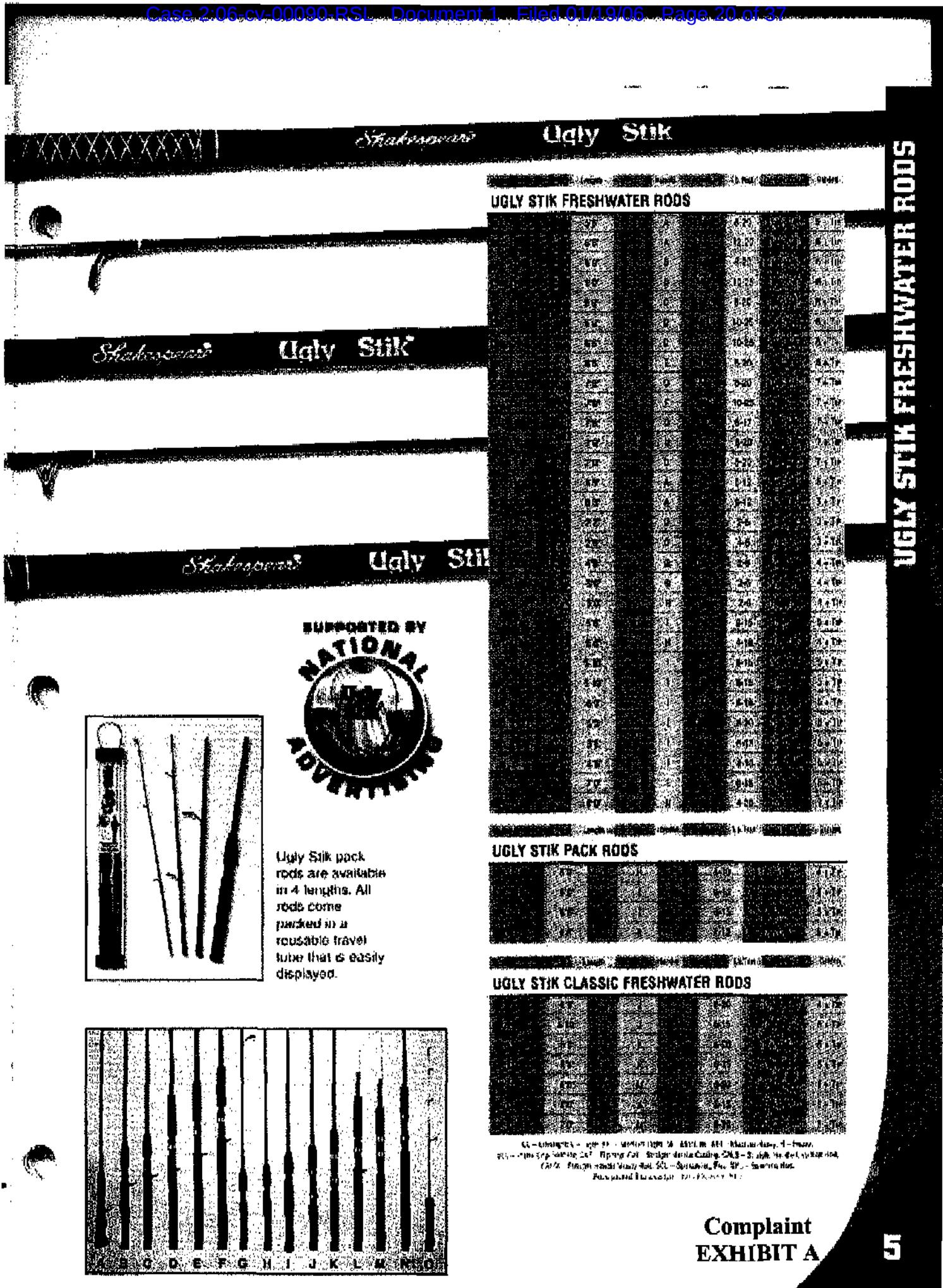
*For over 25 years, the Ugly Stik rod has been unmatched in strength and durability. America knows and trusts Ugly Stik rods for all their fishing applications.*

*For guaranteed strength and sensitivity, look for the Ugly Stik Clear Tip® design.*

4

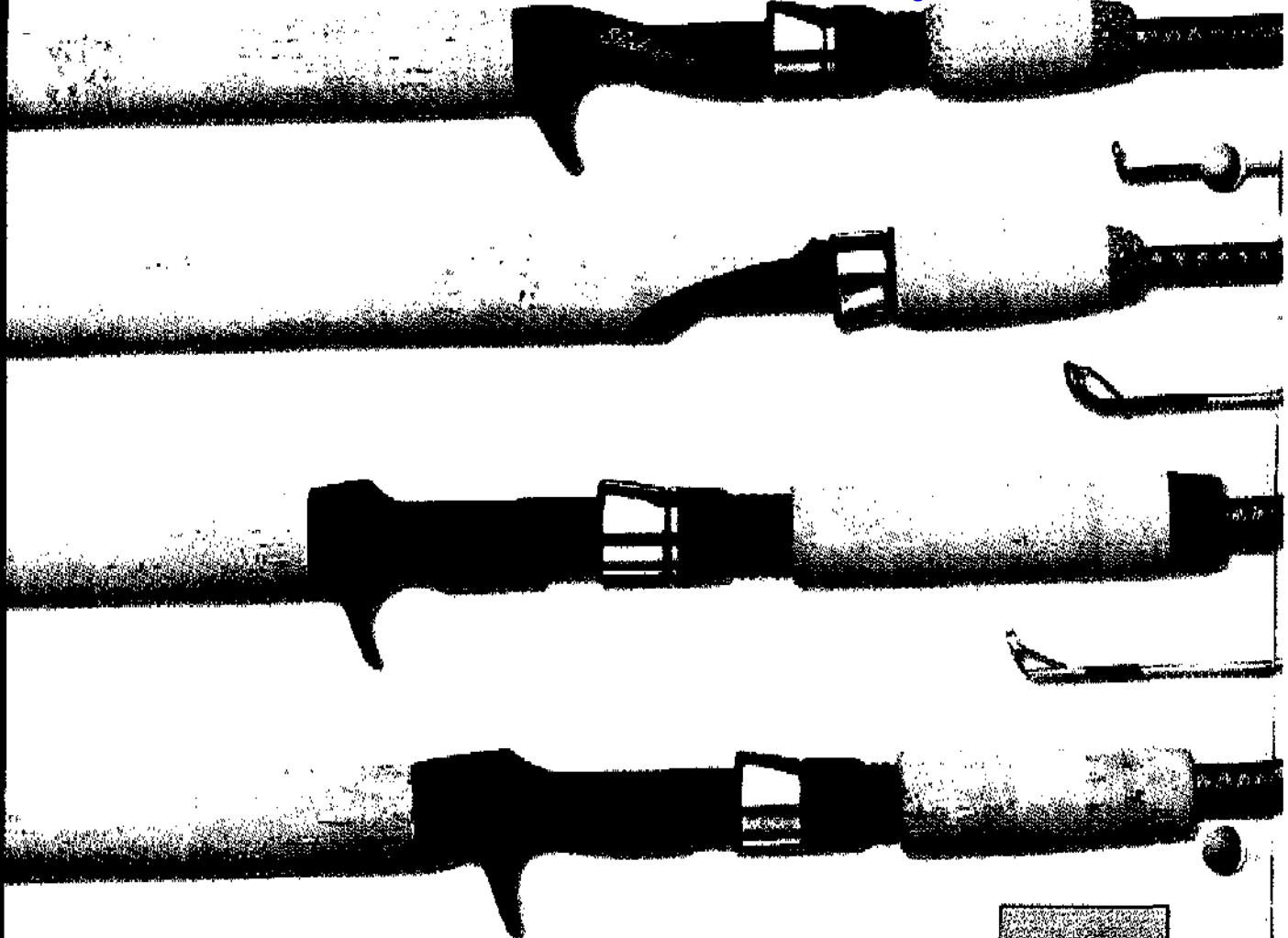


Complaint  
**EXHIBIT A**



**Complaint  
EXHIBIT A**

UGLY STIK LITE RODS



## Ugly Stik *Lite*<sup>®</sup> Graphite

### Ugly Stik Lite Graphite Freshwater Rods

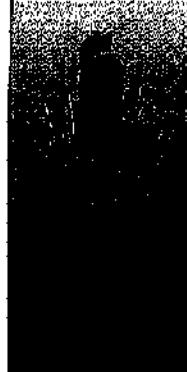
- Ugly Stik Lite Graphite rods feature higher graphite content for added sensitivity and lighter weight.
- Ultimate Guide System features black stainless steel frames with durable polished stainless steel inserts.
- Herald Process™ Triple-Built™ blank featuring graphite/glass/graphite construction making the Ugly Stik Lite stronger, thinner, lighter and more sensitive.
- Ugly Stik Clear Tip<sup>®</sup> design for guaranteed strength and sensitivity.
- Top-grade cork handles with "Comfort-Fit" exposed blank reel seats on casting models and new twist-lock reel seats with cushioned stainless steel hoods on spinning models.
- Blank-through-handle construction for added strength and sensitivity.
- Fly Rod features aluminum oxide guides, stainless steel snake guides and top-grade cork handles.

### Ugly Stik Lite Inshore Rods

- Casting models feature quick-taper action for throwing large lures.
- Spinning models feature even-taper parabolic actions for throwing live bait.
- Graphite reel seats with cushioned stainless steel hoods.
- Stainless steel double-bridged guides with rugged polished stainless steel inserts.
- Top-grade cork grips with rubber butt caps.
- Blank-through-handle construction for added strength and sensitivity.

### Ugly Stik Lite<sup>®</sup> Salmon/Steelhead Rods

- Improved actions for responsive feel
- Graphite Fuji<sup>®</sup> reel seats with cushioned stainless steel hoods.
- Stainless steel double-bridged guides with durable stainless steel inserts.
- Top-grade cork grips.



Our exclusive Herald Process™ Triple-Built™ blank consists of a graphite inner core for strength, E-Glass middle layer for flexibility, and an outer layer of graphite for added sensitivity.



For guaranteed strength and sensitivity,  
look for the Ugly Stik Clear Tip<sup>®</sup> design.

UGLY STIK LITE GRAPHITE FRESHWATER RODS

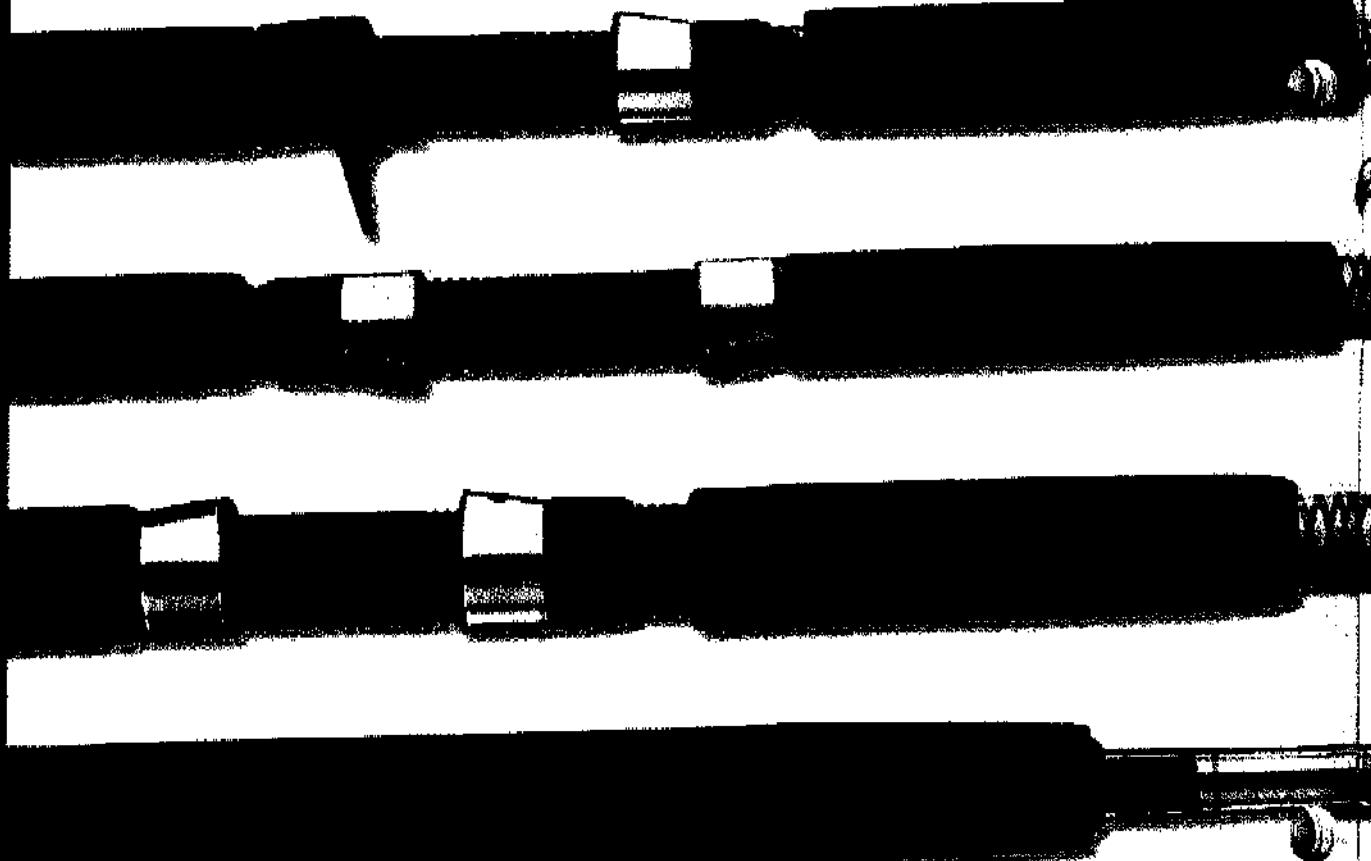
UGLY STIK LITE INSHORE RODS

UGLY STIK LITE SALMON/STEELHEAD/MUSKIE RODS

**EXHIBIT A**

**3**

UGLY STIK BIGWATER RODS



**Ugly Stik®**

**BIG WATER RODS**

- Durable, lightweight EVA grips, graphite Fuji® reel seats with corrosion-resistant stainless steel hood.
- Blank-through-handle construction for added strength and sensitivity on all models.
- Ugly Stik Clear Tip® design for guaranteed strength and sensitivity.\* Epoxy-coated blanks for protection from UV rays.
- Top quality Fuji® guides feature stainless steel frames and aluminum oxide inserts.
- Downrigger rods will not "take a set" as conventional cloth rods will.
- BWB model boat rods feature metallic underwraps with aluminum oxide guides, nylon gimbals, and rubber butt caps.
- Stand-up designs (BWSU models) feature AFTCO® HD roller guides, tip top and machined aluminum reel seats.
- Exclusive "Ugly Back" 60-day/5-year warranty.



*For guaranteed strength and sensitivity, look  
for the Ugly Stik Clear Tip® design.*



**Complaint  
EXHIBIT A**



**UGLY STIK BIGWATER RODS**

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#### **UGLY STIK SALMON/STEELHEAD RODS**

**Lorraine M. O'Brien, PhD - Student (JULY 2014) - [View Profile](#)**  
Postdoctoral Trainee, Department of Biostatistics, University of Michigan School of Public Health  
B.S. (2008) in Biochemistry from the University of Michigan. B.S. (2008) in Biochemistry from the University of Michigan.

**Complaint  
EXHIBIT A**

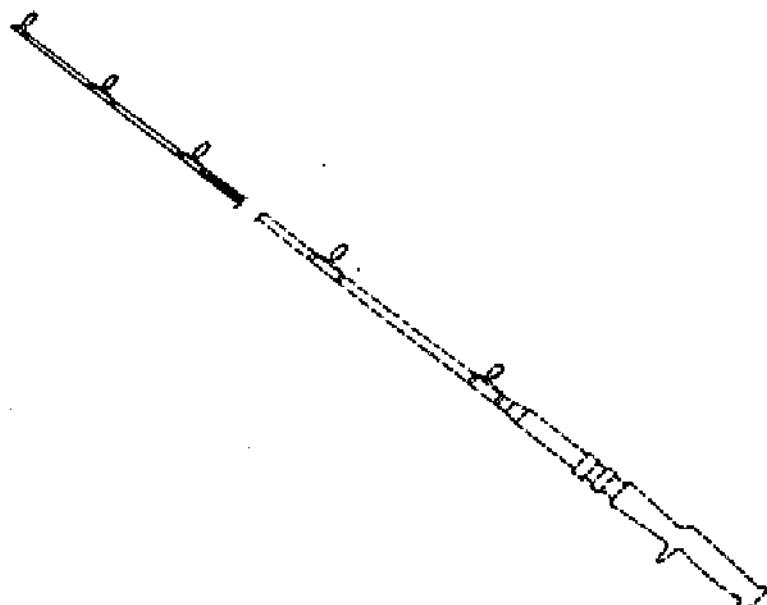
Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

**Reg. No. 1,261,786**  
Registered Dec. 20, 1983

**TRADEMARK**  
**Principal Register**



Shakespeare Company (Delaware corporation)  
P.O. Box 246  
Columbia, S.C. 29202

For: FISHING RODS, in CLASS 28 (U.S. Cl. 22).

First use Mar. 9, 1976; in commerce Apr. 7, 1976.

Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.

The mark is used by applying it to the goods in

that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.

Sec. 2(f).

Ser. No. 169,243, filed May 5, 1978.

W. A. CONN, Examining Attorney

**Complaint**  
**EXHIBIT B**



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Goods and Services	IC 028. US 022. G & S: Fishing Rods. FIRST USE: 19760309. FIRST USE IN COMMERCE: 19760407
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	21.03.08 - Fish nets; Fishing hooks; Fishing lures; Fishing rods; Fishing tackle; Hooks, fishing; Lures, fishing; Nets, fish; Reels, fishing; Tackle, fishing 26.17.25 - Other lines, bands or bars 29.03.10 - Clear or translucent (single color used on a portion of the goods) 29.06.09 - White (Multiple colors used on a portion of the goods) 29.06.10 - Clear or translucent (Multiple colors used on a portion of the goods)
Serial Number	73169243
Filing Date	May 5, 1978
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	December 22, 1981
Registration Number	1261786
Registration Date	December 20, 1983
Owner	(REGISTRANT) Shakespeare Company CORPORATION DELAWARE P.O. Box 246 Columbia SOUTH CAROLINA 29202  (LAST LISTED OWNER) SHAKESPEAR COMPANY, LLC LTD LIAB CO DELAWARE 3801 WESTMORE DRIVE COLUMBIA SOUTH CAROLINA 29223
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of	

**Complaint  
EXHIBIT B**

**Record** JULIE C. VAN DERZANDEN  
**Disclaimer** Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.  
**Description of Mark** The mark is used by applying it to the goods in that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL-2(F)  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20031208.  
**Renewal** 1ST RENEWAL 20031208  
**Live/Dead Indicator** LIVE

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**Complaint  
EXHIBIT B**

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**This page was generated by the TARR system on 2006-01-17 14:10:49 ET**

**Serial Number: 73169243 Assignment Information**

**Registration Number: 1261786 Assignment Information**

**Mark**



**Standard Character claim: No**

**Current Status:** This registration has been renewed.

**Date of Status:** 2003-12-08

**Filing Date:** 1978-05-05

**Transformed into a National Application:** No

**Registration Date:** 1983-12-20

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2003-12-09

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

**1. SHAKESPEAR COMPANY, LLC**

**Address:**

SHAKESPEAR COMPANY, LLC  
3801 WESTMORE DRIVE  
COLUMBIA, SC 29223  
United States

**Legal Entity Type:** Ltd Liab Co

**State or Country Where Organized:** Delaware

**Complaint  
EXHIBIT B**

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## GOODS AND/OR SERVICES

---

**International Class:** 028

Fishing Rods

**First Use Date:** 1976-03-09

**First Use in Commerce Date:** 1976-04-07

**Basis:** 1(a)

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## ADDITIONAL INFORMATION

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**Disclaimer:** Applicant claims no proprietary right in the configuration of the fishing rod itself as a trademark when it lacks the whitish, translucent tip portion feature.

**Description of Mark:** The mark is used by applying it to the goods in that the mark is the color configuration of the fishing rod as shown in the drawing in which the tip portion of the shaft between the tip and the second line guide elements consists of a whitish, translucent material in contrast to the opaque remainder of the shaft. The unshaded portion of the drawing represents the whitish, translucent tip portion feature on the shaft.

**Section 2(f)**

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## MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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## PROSECUTION HISTORY

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2003-12-08 - First renewal 10 year

2003-12-08 - Section 8 (10-year) accepted/ Section 9 granted

2003-09-10 - Combined Section 8 (10-year)/Section 9 filed

2003-09-10 - TEAS Section 8 & 9 Received

2002-07-17 - TEAS Change of Correspondence Received

1989-10-24 - Section 8 (6-year) accepted & Section 15 acknowledged

1989-09-11 - Section 8 (6-year) and Section 15 Filed

1983-12-20 - Registered - Principal Register

1983-12-20 - Registered - Principal Register

1981-12-22 - Published for opposition

1981-11-09 - Notice of publication

1981-11-05 - Approved for Pub - Principal Register (Initial exam)

**Complaint  
EXHIBIT B**

1979-01-19 - Non-final action mailed

1978-07-03 - Case file assigned to examining attorney

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

JULIE C. VAN DERZANDEN (Attorney of record)

JULIE C. VANDERZANDEN  
K2 INC.  
19215 VASHON HIGHWAY SW  
VASHON WA 98070

**Phone Number:** 206-463-8268

**Fax Number:** 206-463-8880

**Complaint**  
**EXHIBIT B**



**America's Strongest,  
Most Sensitive Rod.**

## **America's #1 Selling Rod**

- Graphite inner core for sensitivity.
- E-Glass outer layer for flexibility and toughness.
- Clear Tip® Design.
- America's Strongest, Most Sensitive Rod.
- Exclusive 7-Year Warranty.

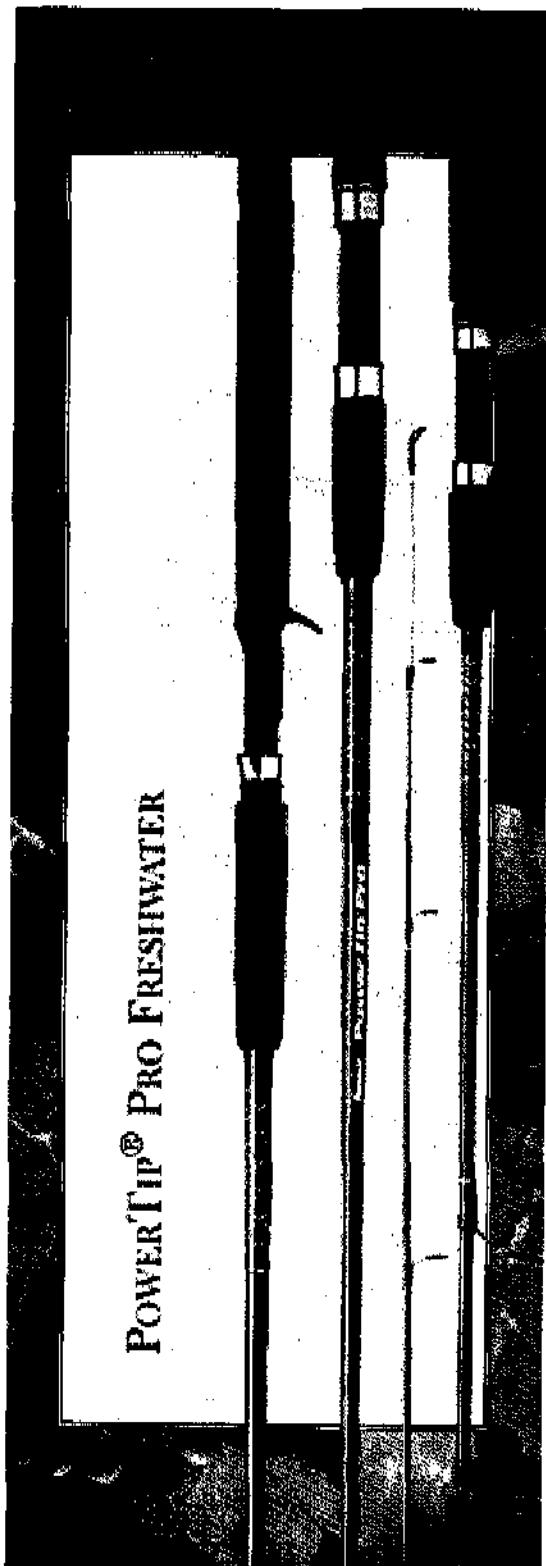
*7 Year  
Warranty*



*Shakespeare*

**SINCE 1897**

Visit our website and learn more about the whole Ugly family.  
[www.shakespeare-fishing.com](http://www.shakespeare-fishing.com)



## POWER TIP® PRO FRESHWATER



### ► PowerTip® Pro Freshwater

Here's a rod series that's ready for heavy-weight river stripers, deep lake trout, or scrappy pond crappie. From 2-pound line to 25-pound, there's a PowerTip® Freshwater Rod that can pass the test. Pinnacle® PowerTip® Pro Rods feature our Dual Layer Blank Construction. In this process, a protective shield of longitudinal super-strong glass fibers is wrapped around a super-sensitive, high-density graphite core. At the top of the rod, these fibers come together to form a solid, unbreakable fiberglass tip, so you're assured of a super-strong, long-lasting rod that will transmit even the gentlest nibble.

### ► PowerTip® Pro Freshwater Features

- Exclusive PowerTip® Dual Layer Construction
- Solid Unbreakable fiberglass tip
- Hand-tied diamond wrap
- Anodized black frame guides with black insert
- Cushioned stainless steel knobs
- Comfortable black non-slip EVA handle
- Under-wrapped guide



### ► PowerTip® Pro Freshwater Spec Model

Model	Length	Action	Line Wt.	Reel Seat Type
PTP501SPU	5'0"	Ultra Light	2-6	Spinning
PTP502SPM	5'0"	Medium	6-12	Spinning
PTP5102SPM	5'10"	Medium	6-15	Spinning
PTP561SPL	5'6"	Light	4-10	Spinning
PTP562SPL	5'6"	Light	4-10	Spinning
PTP601SPH	6'0"	Heavy	8-20	Spinning
PTP602SPM	6'0"	Medium	6-15	Spinning

Bend a PowerTip® severely in a wrenching hookset or fighting a huge trophy and because the anodized black frame guides are underwrapped they can't destroy the blank by biting into it. Cushioned steel rods hold your reel firmly in place and a comfy black non-slip EVA handle lets you keep a grip on anything from the meanest musky to the biggest bass. PowerTip® gives you all the toughness and dependability you need. All that, and a light touch to boot.

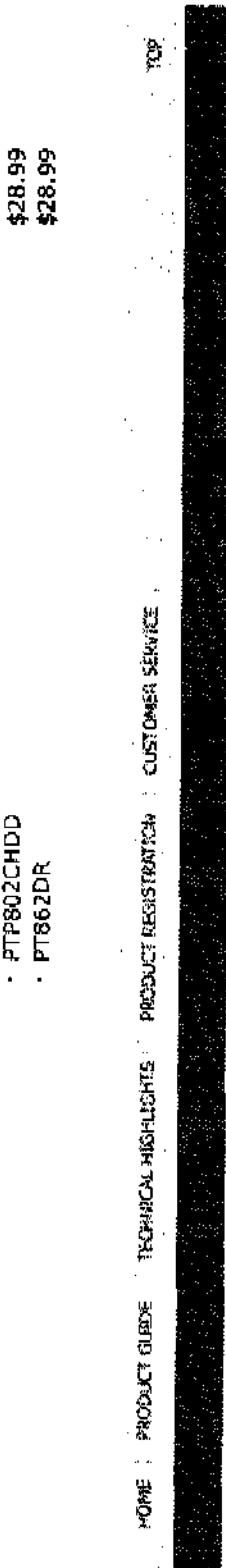
PTP661SPM	6'6"	Medium	6-15
PTP661SPMH	6'6"	Medium Heavy	8-20
PTP662SPM	6'6"	Medium	6-15
PTP702SPM	7'0"	Medium	6-15
PTP802SN	8'0"	Medium	4-20
PTP902SN	9'0"	Medium	4-20
PTP1002SN	10'0"	Medium	4-20
PTP561CAM	5'6"	Medium	8-20
PTP601CAM	6'0"	Medium	12-20
PTP602CAM	6'0"	Medium	12-20
PTP662CAMH	6'6"	Medium Heavy	14-25
PTP701CA	7'0"	Medium	8-17
PTP702CAML	7'0"	Medium Light	8-20
PTP601BWCH	6'0"	Medium	15-25
PTP661BWCH	6'6"	Medium Heavy	12-20
PTP701BWCH	7'0"	Medium Heavy	12-30
PTP702DR	7'0"	Downrigger	8-20
PTP802CHDD	8'0"	Dipsy Diver	14-50
PT862DR	8'6"	Downrigger	6-20

#### ► PowerTip® Pro Freshwater Suggested Retail Price

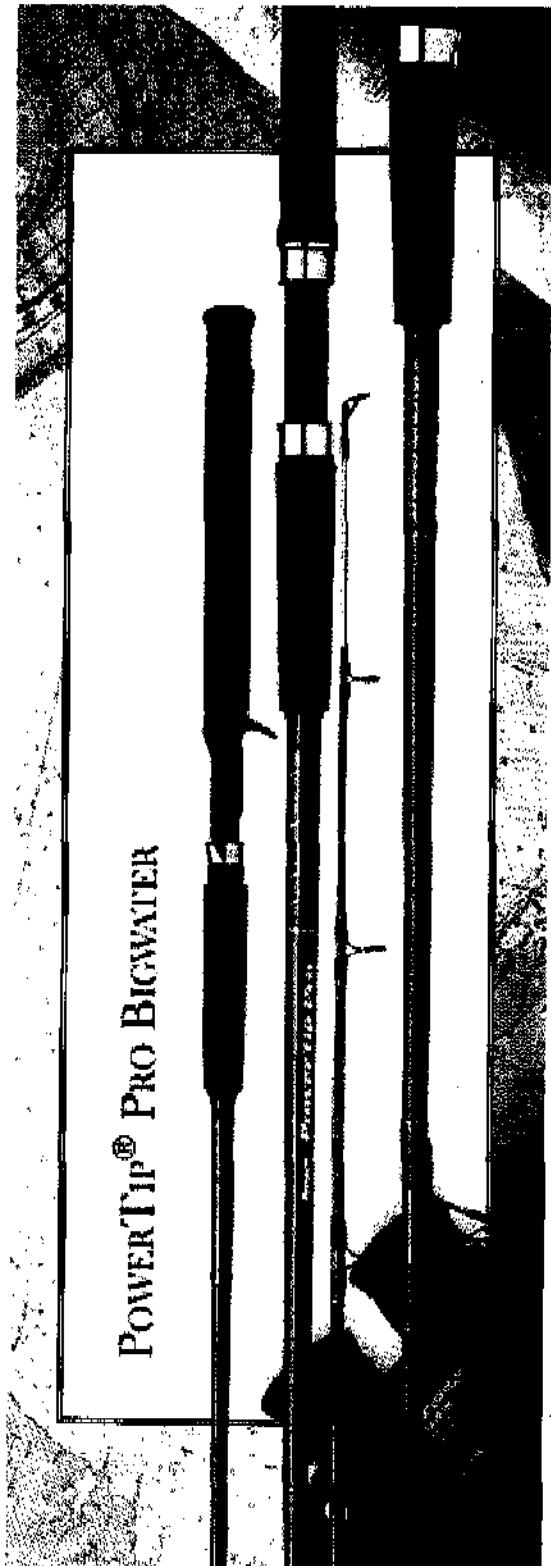
- PTP501SPL
- PTP502SPM
- PTP5102SPM
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- PTP661SPMH
- PTP662SPM
- PTP702SPM
- PTP802SN
- PTP902SN
- PTP1002SN
- PTP561CAM
- PTP601CAM
- PTP602CAM
- PTP662CAMH
- PTP701CA
- PTP702CAML
- PTP661BWCH
- PTP701BWCH
- PTP702DR

PTP661SPM	\$24.99
PTP661SPMH	\$24.99
PTP662SPM	\$24.99
PTP702SPM	\$24.99
PTP802SN	\$28.99
PTP902SN	\$28.99
PTP1002SN	\$28.99
PTP561CAM	\$24.99
PTP601CAM	\$24.99
PTP602CAM	\$24.99
PTP662CAMH	\$24.99
PTP701CA	\$24.99
PTP702CAML	\$24.99
PTP661BWCH	\$24.99
PTP701BWCH	\$24.99
PTP702DR	\$28.99

**Complaint  
EXHIBIT D**



**Complaint  
EXHIBIT D**



## PowerTip® Pro BIGWATER

### **PowerTip® Pro BIGWATER**

In the ocean, survival of the fittest is always the rule. That's why pound for pound, saltwater fish are the hardest fighters. After all, no matter how big the fish, there's probably something bigger down there that wants to eat him. So when you fish the sea, you need a rod that can handle both feisty fish and severe elements. A rod like the PowerTip® BIGWATER Rod. These battle-tested rods are not only sensitive to the softest hit, but they can stand up to sun, salt, and the toughest fish that swim.

Each PowerTip® begins with Dual Layer Construction: A protective shield of longitudinal super-strong glass fibers wrapped around a super-sensitive, high-density graphite core. These fibers come together and form a solid, unbreakable

### ► PowerTip® Pro BIGWATER Features

- Exclusive PowerTip® Dual Layer Construction
- Solid Unbreakable fiberglass tip
- Hand-tied diamond wrap
- Anodized black frame guides with black insert
- Cushioned stainless steel knobs
- Comfortable black non-slip EVA handle
- Under-wrapped guide

### ► PowerTip® Pro BIGWATER Spec Model

Model	Spec Length	Action	Line Wt.	Reel Seat Type
PTP601BR	6'0"	Medium	15-30	Casting
PTP661BR	6'6"	Medium	15-40	Casting
PTP701BWCL	7'0"	Light	12-30	Trigger
PTP601BWSH	6'0"	Heavy	15-30	Spinning
PTP661BWS	6'6"	Medium	12-30	Spinning
PTP701BWS	7'0"	Medium	12-30	Spinning
PTP701BWSML	7'0"	Medium Light	12-25	Spinning

**Complaint  
EXHIBIT D**

fiberglass tip that is clear.

Polished aluminum oxide line guide inserts hold up to wire leaders, high test-pound mono and the stress of casting heavy lead weights. Guides are underwrapped to protect the blank in fish lifting bends. The stainless steel hoods won't rust. And the high density EVA handles are both durable and comfortable, even after hours of hard fishing.

**► PowerTip® Pro Bigwater Suggested Retail Price**

PTP701BWSH	7'0"	Heavy	15-40	Spinning
PTP702BWSM	7'0"	Medium	12-30	Spinning
PTP802BWSL	8'0"	Light	10-25	Spinning
PTP902BWSMH	9'0"	Medium Heavy	12-30	Spinning
PTP1002BWSM	10'0"	Medium	15-40	Spinning
PTP1202BWSM	12'0"	Medium	15-40	Spinning

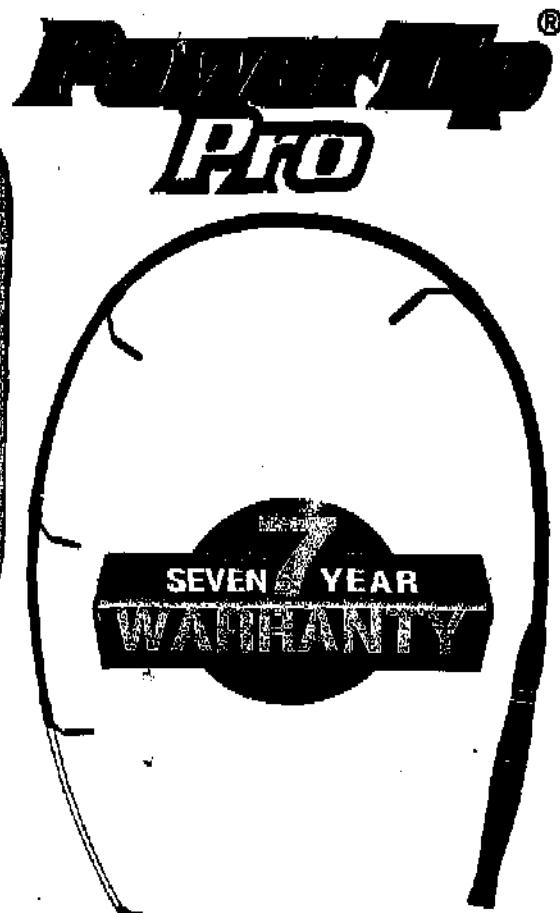
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## World's Strongest Rod

- Dual Layer Construction
- Solid Unbreakable Fiberglass Tip
- Hand-Tied Diamond Wrap



**Pinnacle®**  
RODS & REELS